

REMARKS:

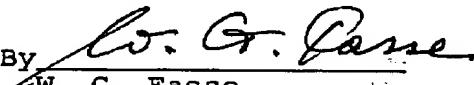
- 1) The allowance of claims 49 to 56 and 61 to 70 is sincerely appreciated.
- 2) With regard to the objection to the specification page 5, last paragraph in connection with claim 49, please note that the list of elements of group "d" appearing in the paragraph bridging pages 5 and 6 of the present specification has now been conformed to the respective listing of the "d" group in currently amended claim 71 which does not contain Al. Accordingly, page 5, line 21 to page 6, line 3 has been amended as set forth above. The listing of the "d"-group in allowed claim 49 has its full support in the original specification page 11, lines 11, 12 and 13. Therefore, a further revision of the specification is not necessary. Withdrawal of the objection to the specification is respectfully requested.
- 3) The rejection of claim 71 as being anticipated by Japanese Patent Publication JP-09-097676 (Onikubo et al.) is respectfully traversed for the following reasons. All elements of the C-group in column 3, paragraph 0011 as disclosed by Onikubo et al. have been removed from currently amended claim 71 groups "f" and "p". Therefore, there is no overlap between all group listings "f", "p" and "d" of claim 71 as currently amended on the one hand and the listings A, B and C of Onikubo et al. on the other hand. This is so, because Onikubo et al. teach expressly in column 3 that their ternary alloy of which the negative electrode is made, must contain one element from each group A, B and C.
- 4) Since group C elements have been entirely removed from currently amended claim 71, it follows that claim 71 as amended does not

include any ternary alloy as disclosed by Onikubo et al. Withdrawal of the rejection of claim 71 under 35 U.S.C. §102(b) is respectfully requested.

- 5) Onikubo et al. also do not suggest the invention as defined in claim 71 (currently amended) because claim 71 avoids elements from Onikubo's group-C while Onikubo et al. teach expressly that their ternary alloy for the negative electrode must include one element from each of his groups A, B and C.
- 6) Favorable reconsideration and allowance of claim 71 with allowed claims 49 to 56 and 61 to 70, and issuing the Notice of Allowance for all claims 49 to 56 and 61 to 71 are respectfully requested. Claims 1 to 48 and 57, 58, 59 and 60 have been canceled.

Respectfully submitted,

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Anita Morse - February 16, 2004  
Name: Anita Morse - Date: February 16, 2004